

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW D. and JENNIFER D., individually, and as the Parents and Natural Guardians of M.D., Plaintiffs, v. AVON GROVE SCHOOL DISTRICT, Defendant.	: : : : : : : : : :	CIVIL ACTION NO. 12-0777
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ORDER

AND NOW, this 13th day of July, 2015, upon consideration of the Motion for Summary Judgment on the Administrative Record filed by defendant, Avon Grove School District (ECF Document 17), the Motion for Judgment on the Administrative Record filed by plaintiffs, Matthew D. and Jennifer D., individually, and as the parents and natural guardians of M.D. (Doc. 19), the parties' respective Responses to the aforesaid motions, and the parties respective additional briefing filed in response to the Order filed June 22, 2015 regarding exhaustion of administrative remedies (Docs. 31 & 32; *see* Order filed 6/22/15 (Doc. 30)), for the reasons explained in the accompanying Memorandum, it is hereby **ORDERED** that:

1. Plaintiffs' Motion for Judgment on the Administrative Record (Doc. 19) is **DENIED**;
2. Defendant's Motion for Summary Judgment on the Administrative Record (Doc. 17) is **GRANTED** insofar as defendant requests Judgment in its favor on Count I of plaintiff's Amended Complaint requesting tuition reimbursement, costs, and fees;
3. Defendant's request for dismissal of Count II of plaintiff's Amended Complaint (plaintiff's Section 504 claim) for lack of subject-matter jurisdiction (Doc. 32) is

GRANTED, and Count II of the Amended Complaint is **DISMISSED** in that plaintiff acknowledges a failure to satisfy the requirement of exhaustion of administrative remedies, *see* Pls.’ Br. filed 6/26/15 (Doc. 31) (“Count II of the Amended Complaint must be dismissed for lack of subject matter jurisdiction”);

4. Defendant’s Counterclaim is **DISMISSED**, *see* Mem. Op. filed 7/13/15, n.6 (accompanying this Order).

BY THE COURT:

s/ L. Felipe Restrepo

L. FELIPE RESTREPO

UNITED STATES DISTRICT JUDGE